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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,862	11/03/2003	Mark P. Lowell	77297.004003C	9353
7590 03/22/2006			EXAMINER	
GERALD LEVY, ESQ. PITNEY HARDIN LLP 685 THIRD AVENUE NEW YORK, NY 10017-4024			HSU, RYAN	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/698,862

Applicant(s)

LOWELL ET AL.

Examiner

Ryan Hsu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/4/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

Examiner notes that there seems to be distinct inventions claimed with regard to claim 26 being a divergent invention from claims 1, 27, 53, 55-56, and 58. Claim 26 is directed towards a progressive cash prize system whereas the rest of the application is directed towards a method and apparatus to implement a Bingo game. However, the Examiner has not required an election at this time.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 53-54, and 56-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Horan (US 6,220,596 B1).**

Regarding claims 1 and 53, Horan discloses a method of enhancing the play of a game of bingo comprising: (i) designating a set of potential numbers for the game (*see col. 5: ln 35-42*); (ii) designating a plurality of subsets of the potential numbers for the game (*see col. 7: ln 12-33*); (iii) associating each of the plurality of subsets with a bingo card column (*see col. 7: ln 12-33*); (iv) providing at least one bingo card to at least one player, the at least one bingo card including a plurality of spaces, the spaces being arranged in a matrix of rows and columns wherein each of the spaces contains either a number from the subset of numbers associated with the column in which the space appears or a free space designator (*ie: a bingo card*) (*see Fig. 2-3 and the related description thereof*); (v) designating at least one pattern of spaces as determinative of a

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winner of the game (*see col. 5: ln 24-32*); (vi) providing at least a first set of indicators (*ie: relationship with B-I-N-G-O and the columns and rows*); (vii) associating each of the first set of indicators with a win enhancement value and electing whether the first set of indicators should be associated with columns or rows on the at least one bingo card (*see Figs. 2-3 and the related description thereof*); (vii) associating at least one of the first set of indicators to at least one of the elected at one columns or rows (*see Figs. 2-3 and the related description thereof*); (ix) repeating the process of selecting numbers at random from the set of potential numbers for the game until the game ends (*see col. 6: ln 23-col. 8: ln 18*); (x) paying the at least one player if the at least one player has a bingo card with numbers matching those selected from the set of potential numbers and if the pattern formed by the matching numbers matches the at least one pattern designated as a winning pattern (*see col. 6: ln 25-col. 6: ln 11*); and (xi) paying the at least one player the win enhancement value if the at least one player has a bingo card with numbers matching those select from the set of potential numbers, and if the pattern formed is designated as a winning pattern (*see col. 6: ln 25-col. 6: ln 11*).

Regarding claim 56, Horan discloses an apparatus for playing an enhanced game of bingo, comprising: (i) a random number generator that selects numbers at random from within a set of numbers associated with a bingo game, the set of numbers also corresponding to at least one bingo card having a plurality of numbered spaces arranged in a matrix of rows and columns, wherein the set of numbers is comprised of a plurality of subsets of numbers and each of the subsets is assigned to a column or row (*see col. 5: ln 26-42*); (ii) at least a first set of indicators (*see B-I-N-G-O of Fig. 2-3 and the related description thereof*); (iii) at least one configuration of at least one pattern of at least one

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numbers space on the bingo card, the configuration determining a winner of the game (*see col. 5: ln 26-42*); and (iv) a selection means for determining the winner, wherein the selection means iteratively generates a random number using the random number generator matches the number to its corresponding numbered space, if present, on the bingo card, and if the column or row with which the random number is associated, and then generates additional numbers and matches them to corresponding numeric spaces on the bingo card until the game has ended (*see col. 5: ln 26-42*).

Regarding claim 58, Horan discloses an overlay to a bingo game, comprising: (i) designating at least one pattern of spaces on a bingo card as determinative of a winner of the game (*see col. 5: ln 26-42*); (ii) providing a first set of indicators (*see B-I-N-G-O of Fig. 2-3 and the related description thereof*); (iii) associating each of the first set of indicators with a win enhancement value (*see B-I-N-G-O of Fig. 2-3 and the related description thereof*); (iv) electing whether the first set of indicators should be associated with bingo card columns or bingo card rows (*see Figs. 2-3 and the related description thereof*); (v) associating at least one of the first set of indicators with at least one of the elected columns or rows on the bingo card; (vi) repeating the process of selecting numbers at random from the set of numbers associated with the bingo game and advising at least one player for the selected numbers until the game ends (*see col. 5: ln 26-42*); (vii) paying the at least one player if the at least one player has a bingo card with numbers matching those selected from the set of potential numbers and if the pattern formed by the matching numbers matches the pattern designated as a winning pattern (*see col. 6: ln 25-col. 7: ln 67*); and (viii) paying the at least one player the win enhancement value if the at least one player has a bingo card with numbers matching those selected from the

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set of potential numbers, if the pattern formed by the matching numbers matches the pattern designated as a winning pattern, and if the pattern formed by the matching numbers contains at least one win enhancement activator number (*see col. 7: ln 34-col. 8: ln 18*).

Regarding claim 54, Horan discloses a bingo game that selects at least one number at random from each of the subsets to serve as a win enhancement activator and paying that least one player the win enhancement value only if the pattern formed by the matching numbers contains at least one win enhancement activator number (*ie: card matches a predetermined winning pattern and the numbers drawn by the RNG*) (*see col. 5: ln 26-42*).

Regarding claim 57, Horan discloses a bingo game apparatus wherein each column or row is assigned a unique indicator (*ie: B-I-N-G-O, see Figs. 2-3 and the related description thereof*).

**Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Gauselmann (US 6,089,980).**

Regarding claim 26, Gauselmann discloses a method of displaying a progressive cash prize during a gaming session to a player comprising: (i) calculating a progressive prize amount from a previous gaming session (*see col. 2: ln 16-67*); (ii) showing on a display an un-incremented prize amount; and, incrementing the prize shown on the display at an accelerated rate until the displayed amount is at least equal to the progressive prize amount (*see display [3] of Fig.1 and the related description thereof*).

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 2-25, 27-52, 55, and 59-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horan as applied to claims above, and further in view of Weingardt (US 5,727,786).**

Regarding claims 27, 29-31, and 55, Horan discloses a method of playing a game of bingo comprising: (i) designating a set of potential numbers for the game (*see col. 5: ln 35-42*); (ii) designating a plurality of subsets of the potential numbers for the game (*see col. 7: ln 12-33*); (iii) associating each of the plurality of subsets with at least one bingo card column; (iv) providing at least one bingo card to at least one player, the bingo card including a plurality of spaces, the spaces being arranged in a matrix of rows and columns wherein each of the spaces contains either a number from the subset of numbers associated with the column in which the space appears or a free space indicator (*see Fig. 2-3 and the related description thereof*); (v) selecting at least one random from each of the subsets of the potential numbers for the game (*see col. 7: ln 12-22*); (vi) designating

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at least one first pattern of spaces on a bingo card as determinative of a winner of the game, wherein the pattern includes at least a column of spaces on the bingo card (*see col. 5: ln 26-42*); (x) repeating the process of selecting numbers at random from the set of potential numbers for the game until the game ends (*see col. 5: ln 39-42*); (xi) paying the at least one player if the at least one player has a bingo card with numbers matching those selected from the set of potential numbers, and if the pattern formed by the matching numbers matches the at least one first pattern designated as a winning pattern (*see col. 6: ln 23-col. 8: ln 18*); and (xii) paying a first bonus to the at least one player if the at least one player has a bingo card with numbers matching those selected from the set of potential numbers and if the pattern formed by the matching numbers matches the at least one first pattern designated as a winning pattern, wherein the value of the first bonus equals the win enhancement value associated with the column in which the win occurs (*see col. 6: ln 23-col. 8: ln 18*). However, Horan is silent with regard to incorporating a second attribute or color with the columns and determining the users win enhancement value. In an analogous gaming patent, Weingardt teaches the implementation of using colors to create subsets of numbers. Weingardt teaches the incorporation of colors in order to allow for different predetermined payouts depending on the odds of receiving a "red, "yellow", "blue" or "green" Bingo. Weingardt's Bingo method incorporates all attributes of conventional bingo but adds an additional association to the game card in order to allow for more variety and a chance for users to win larger prizes for more rare occurrences of bingo combinations. Therefore it would motivate one to implement the features taught in Weingardt to create a bingo game that delivers a more exciting experience for the user. Therefore it would be obvious to one of ordinary skill in the art



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at the time of the invention to incorporate the teachings of Weingardt with Horan to create a Bingo game that incorporates the row and column associations as part of the Bingo game. Additionally, Weingardt and Horan teach the claimed invention except that it is silent with regard to a diamond symbol number. However, Horan and Weingardt show the row and column association with the bingo card to determine different award prizes and indicate using a second attribute such as color in order to visually notify the user of the different winning event types. The diamond symbol number effectively does the equivalent feature but uses a different graphical art. Therefore because these two features were art-recognized equivalents and only differ through a graphical design choice one of ordinary skill in the art would have found it obvious to substitute the use of color numbers with a diamond symbol number feature.

Regarding claims 2, 4 and 28, Weingardt teaches a bingo method selecting at least one number at random from each of the subsets to serve as a win enhancement activator and paying the at least one player the win enhancement value only if the pattern formed by the matching numbers contains at least one win enhancement activator number (*see col. 4: ln 50-col. 6: ln 3*).

Regarding claims 3 and 59, Weingardt teaches a bingo method comprising: providing a second set of indicators (*see 'second designated marking' of Fig. 8 and the related description thereof*); associating each of the second set of indicators with a win enhancement value and associating at least one of the second set of indicators to the other of columns or rows (*see col. 4: ln 50-col. 6: ln 3*).

Regarding claims 5-6 and 60-61, Weingardt teaches wherein the first set of indicators includes colors (*see abstract*). Additionally the first set of indicators includes

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graphical images (*ie: the numbers associated with the colors constitute graphical images*).

Regarding claims 7-11, 32-37, and 62-66, Horan teaches a bingo card method wherein the pattern of spaces includes a pattern of contiguous spaces, vertical column of spaces, horizontal row of numbered spaces, diagonal pattern, or noncontiguous spaces on the bingo card (*see col. 5: ln 26-42 and Figs. 2-3 and the related description thereof*).

Regarding claims 12-15, 38-41, and 67-70, Horan teaches a bingo card method wherein the random numbers are generated by selecting a ball having a number printed on it from a plurality of balls and the card is maintained and displayed electronically by a card tending device (*see "Pick-N-Choose", col. 3: ln 22-51, col. 5: ln 35-42*).

Additionally the number associated with the randomly selected ball is manually entered into the card tending device by the player and the bingo card is marked or daubed by the player interacting with the card tending device (*see col. 6: ln 59-col. 7: ln 11, col. 4: ln 10-67*).

Regarding claims 16, 42, and 71, Horan teaches a bingo method wherein the bingo card is maintained and displayed electronically by a card-tending device (*see col. 3: ln 22-col. 4: ln 65*).

Regarding claims 17, 43, and 72, Horan teaches a bingo method wherein the random numbers are generated by a computing device and communicated to the card-tending device (*see col. 3: ln 22-col. 4: ln 65*).

Regarding claims 18, 44, and 73, Horan teaches a win enhancement value that is a progressive prize (*see col. 7: ln 1-11*).

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Regarding claims 19, 45, and 74, Horan teaches the progressive prize is incremented at an accelerated rate (*see col. 3: ln 1-21, col. 6: ln 6-58*).

Regarding claims 20-21, 46, and 75, Horan teaches the progressive prize is incremented to reflect live updating of the prize amount (*see col. 3: ln 1-21, col. 6: ln 6-58*).

Regarding claims 22-23, 47-52 and 76-77, Horan and Weingardt teach a method wherein the columns or rows to which the at least one first indicator is assigned contains a unique indicator (*see Horan or "Free Space" of Fig. 2-3 and the related description thereof, or "red", "blue", "green", "yellow" indicators of Weingardt*).

Regarding claim 24 and 78, Horan teaches a method wherein the column closest to the middle of the matrix is assigned a unique indicator (*see "Free Space" of Fig. 2-3 and the related description thereof*).

Regarding claims 25 and 79, Horan teaches a method wherein the row closest to the middle of the matrix is assigned a unique indicator (*see "Free Space" of Fig. 2-3 and the related description thereof*).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Marnell, II (US 5,393,057) – Electronic Gaming Apparatus and Method.

Hirsch et al. (US 6,599,188 B2) – Progressive Bingo.

Leake (US 5,624,119) – Multiple Variable Game Equipment and System for Generating Game Faces.

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Tawil (US 5,951,396) – Apparatus and Method for real Time Monitoring and Registering of Bingo Game.

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

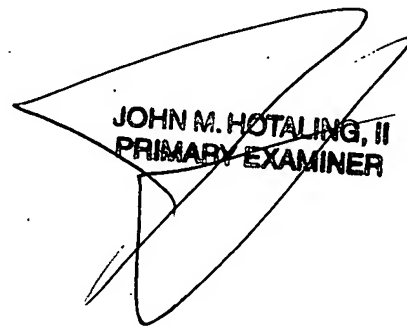
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached at (571)-272-4438.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).



RH

March 19, 2006



JOHN M. HOTALING, II  
PRIMARY EXAMINER